Introduction

The Truth in Savings Act (TISA) (12 U.S.C. 4301 et seq.) was enacted on December 19, 1991, as Subtitle F of the Federal Deposit Insurance Corporation Improvement Act of 1991. Amendments to TISA were enacted on October 28, 1992, in Titles IX and XVI of the Housing and Community Development Act of 1992 (Pub. L. 102-550, 106 Stat. 3672). Regulation DD, which implements the TISA, became effective on June 21, 1993.

In general, Regulation DD covers accounts held by consumers at depository institutions. Consumer accounts include deposits such as checking, savings, and time accounts held by an individual primarily for a personal, family or household purpose. A depository institution is an institution that is either federally insured or is eligible to apply for such insurance.

The purpose behind Regulation DD is to enable consumers to make better informed decisions about accounts at depository institutions through the use of uniform disclosures. The disclosures aid comparison shopping by informing consumers about the fees, annual percentage yield, interest rate and other terms for deposit accounts. Consumers are entitled to receive disclosures about accounts upon request, when an account is opened, when terms are changed, before the maturity of most time accounts, and if a periodic statement is sent. Also, an institution must pay interest on the full balance in consumer accounts each day, and must choose between two methods of calculating the balance for paying interest.

Payment of Interest

The "interest rate" is the annual rate of interest paid on an account which does not reflect compounding. In general, an institution pays "interest" through the application of a periodic rate to an account balance. Interest does not include the absorption of expenses, forbearance in charging fees, or the payment of bonuses. Regulation DD does not require an institution to pay consumers interest for the use of funds in an account. However, if an institution does pay interest on an account, the following rules apply:

- Interest must be paid on the full principal balance in the account each day. A daily rate of at least 1/365 (or 1/366 in a leap year) of the interest rate must be applied to the balance. An institution may apply a daily periodic rate that is greater than 1/365 of the interest rate (for example, a daily periodic rate of 1/360) as long as it is applied 365 days a year.

- Either the daily balance method or the average daily balance method must be used to calculate the balance on which interest is paid. The "daily balance method" applies a daily periodic rate to the entire principal balance every day. The "average daily balance method" applies a daily periodic rate to the average principal balance. The average principal balance is the sum of the entire principal balance for each day of the period, divided by the number of days in the period.

- Consumers may be required to maintain a minimum balance to earn interest. An institution using the daily balance method may choose not to pay interest for those days balances drop below the required daily minimum balance. An institution using the average daily balance method may choose not to pay interest if the average balance for the period falls below the minimum. If an institution imposes a minimum balance, it must use the same method to calculate whether the minimum balance is met as it uses to calculate interest. If it would benefit consumers unequivocally, an additional method can be used to determine if the minimum balance requirement is met.

- An institution may choose how often it will credit interest to interest-bearing accounts. It may also choose whether to compound interest, and if so, how often the compounding will occur. If a consumer closes an account between

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crediting dates, an institution may choose not to pay accrued but uncredited interest

- Interest must begin to accrue no later than when the institution must begin accruing interest for interest-bearing accounts under section 606 of the Expedited Funds Availability Act (12 U.S.C. 4005 et seq.) and Regulation CC (12 CFR 229.14). In addition, once interest starts to accrue, it must continue to accrue until funds are withdrawn. However, an institution need not pay interest during a grace period for automatically renewable time accounts if the consumer decides during the grace period not to renew the account or after a nonautomatically renewable time account matures.

Annual Percentage Yields

There are two terms used to describe the rate paid to consumers. First, for account disclosures and advertising, the term "annual percentage yield" represents an annualized rate measuring the total amount of interest paid on an account based on the interest rate and the frequency of compounding. Second, the term "annual percentage yield earned" represents an annualized rate that is tied directly to the amount of interest earned and the account balance for the period reflected on a periodic statement. It reflects the relationship between the amount of interest actually earned and the average balance in the account for the statement period, or in limited cases, for the interest accrual period.

General Disclosure Requirements

The account disclosures must be in writing and reflect the legal obligation between the parties and be in a form the consumer can retain. The information must be presented clearly and conspicuously, so that consumers may readily understand the terms of their account. An institution may have a separate disclosure for each account or may combine Regulation DD disclosures for several accounts in a single document such as a brochure for all NOW accounts.

Regulation DD requires specific terminology for three figures. First, the "annual percentage yield" must be labeled as such in account disclosures and advertisements. Second, when the "interest rate" is used in account disclosures and advertisements, it must be so labeled. Finally, the "annual percentage yield earned" must be labeled as such on the periodic statement.

The annual percentage yield and annual percentage yield earned must be shown to two decimal places and rounded to the nearest one-hundredth of one percent (.01%). (For example, an annual percentage yield of 5.644% would be shown as 5.64%; 5.645% would be disclosed as 5.65%.) The same rule applies to interest rates; however, an institution may show the contract interest rate at more than two decimals in account disclosures.

The annual percentage yield or annual percentage yield earned disclosed is considered accurate if it is not more than 1/20 of one percentage point (.05%) above or below the actual annual percentage yield as determined in accordance with Appendix A. An institution may not purposefully incorporate the tolerance as part of its calculations. There is no corresponding tolerance for the accuracy of the interest rate.

Providing Account Disclosures

An institution must provide account disclosures to consumers before an account is opened or a service is provided, whichever is earlier. If consumers are not present when accounts are opened, the account disclosures must be mailed or delivered within 10 business days of the time the accounts are opened. An institution must also provide disclosures to consumers for each account for which the consumer requests information.

Disclosures must be accurate when provided to the consumer. For disclosures given upon request, the annual percentage yield and maturity of time accounts are accurate if an institution provides an annual percentage yield and interest rate that are current within the most recent seven calendar days, along with a statement that the rates are accurate as of a given date and a telephone number to call for rates currently available.

Content of Account Disclosures

The following information must be disclosed, as applicable.

- Rate information
- Annual percentage yields and interest rates - An institution must disclose the "annual percentage yield," using that term and the "interest rate," using that term (The corresponding periodic rate is the only other rate permitted to be disclosed.)
- The period of time the interest rate will be in effect after a fixed-rate account is opened
- All annual percentage yields and interest rates for stepped-rate and tiered-rate accounts
  - — A "stepped-rate account" has two or more interest rates that take effect in succeeding periods and are known when the account is opened.
  - — A "tiered-rate account" is two or more interest rates that are applicable to specified balance levels.
- Variable rate information — A "variable-rate account" is one in which the interest rate may change after the account is opened, unless the institution contracts to give at least 30 calendar days advance written notice of rate decreases. A variable-rate account includes those where the rate change is determined by reference to an index, by use of a formula, or merely at the discretion of the institution. If an institution offers variable-rate accounts, it must disclose the following:
  - — that the interest rate and annual percentage yield may change.
  - — how the interest rate is determined. If an institution reserves the right to change rates and does not tie changes to an index, the institution must disclose the fact that rate changes are solely within the institution's discretion.
  - — the frequency with which the interest rate may change. An institution that reserves the right to change rates at any time must state that fact.
  - — any limits on the amount the interest rate will change at any one time or for any period.
- Compounding and crediting interest — If an institution compounds or credits interest, it must disclose the frequency, such as "daily," "monthly," or "quarterly."
- Effect of closing an account — An institution must disclose if the deposit contract provides that interest that has accrued but not been credited will not be paid if the consumer closes his or her account before interest is credited.
- Balance information
  - — Minimum balance requirements. An institution must disclose any minimum balance required to open the account, to avoid the imposition of fees, or to obtain the annual percentage yield. An institution must also describe how it determines any minimum balance.
  - — Balance computation method. An institution must describe the balance computation method it uses to calculate interest on the account.
- When interest begins to accrue — An institution must state when interest begins to accrue.
- Fees — An institution must disclose the amount of all fees that may be assessed in connection with the account, including maintenance fees, fees related to deposits or withdrawals, whether by check or electronic transfer, fees for special account services and fees to open or to close accounts.
- Transaction limitations — An institution must state any limitations on the number or dollar amount of deposits to, withdrawals from, or checks written on an account for any time period. If an institution does not allow any withdrawals or deposits on time accounts, that fact must be disclosed.
- Features of time accounts — An institution must make the following disclosures for time accounts:
  - — Time requirements. Except for responses to requests for disclosures, an institution must state the maturity date.

— Early withdrawal penalties. An institution must disclose the conditions under which an early withdrawal penalty will be assessed.

— Withdrawal of interest prior to maturity. If, on a time account that compounds interest during the term, a consumer elects to withdraw accrued interest, the institution must disclose that the annual percentage yield assumes that interest remains on deposit until maturity and that a withdrawal reduces the earnings on the account.

— Renewal policies. An institution must state whether or not a time account will automatically renew at maturity. If the account will renew automatically, the institution must disclose if a grace period will be provided, and if so, its length. For nonautomatically renewable time accounts, an institution must tell consumers whether interest will be paid after maturity of the account.

- Bonuses — If bonuses are offered on accounts, an institution must state the amount and type of bonus, when the bonus will be paid, and any minimum balance or time requirements consumers must meet in order to obtain the bonus.

Change in term notices

If an institution changes the term for an account required to be disclosed, and the change might reduce the annual percentage yield or adversely affect consumers, an institution must send a written notice 30 calendar days before the effective date of the change. An institution is not required to send notices if the rate changes on a variable rate account, if the terms change for time accounts with maturities of 31 days or less, or if the fees for check printing increase.

Notices for Maturing Time Accounts

Regulation DD requires an institution to provide disclosures for certain maturing time accounts. If the annual percentage yield and interest rate for a renewing time account is not known when the maturity notice must be sent, an institution may explain that this information is not available and provide the date when the yield and rate will become known and a telephone number consumers may call to learn about the new yield and rate.

- If an automatically renewable time account has a maturity of longer than one year (366 days), an institution must provide the maturity date for the existing account, and all disclosures required for a new account. These disclosures must be sent either 30 calendar days before the scheduled maturity date, or 20 calendar days before the end of a grace period following maturity, as long as the grace period is at least five days.

- If an automatically renewable time account has a maturity of more than one month (31 days) but one year or less, an institution must provide either the disclosures required for automatically renewable time accounts with maturities longer than one year, or the maturity date for the new account and the maturing account, and any difference in terms of the new account as compared to those required to be disclosed for the existing account. The time frames within which these disclosures must be sent is the same as those for automatically renewable time accounts with a maturity of longer than one year.

- If an automatically renewable time account has a maturity of one month (31 days) or less, an institution must send disclosures within a reasonable time after maturity and must include any term (other than the annual percentage yield and rate) that has changed for the new account as compared to those disclosed for the existing account.

- If a nonautomatically renewable time account has a term longer than one year, an institution must send a notice 10 calendar days before maturity that states the maturity date of the existing account and whether interest will be paid after maturity.

Periodic Statement Disclosures

Regulation DD does not require an institution to send periodic statements to consumers, but if a statement is provided, it must include certain information. An institution provides "periodic statements" to consumers if the statements set forth account information and are provided to consumers on a regular basis four or more times a year. Statements providing information to consumers about time accounts or passbook savings accounts are not covered.

An institution that provides periodic statements must disclose the following information for the statement period, as applicable:

- Annual percentage yield earned — An institution must disclose the "annual percentage yield earned" (computed in accordance with Appendix A, Part II), using that term.
- Amount of interest — An institution must show interest earned during the statement period.
- Fees — An institution must disclose fees (required to be disclosed under §230.4(b)(4)) that have actually been debited from the account during the period.
- Length of period — An institution must disclose the total number of days in the statement period. Alternatively, an institution may state the beginning and ending dates of the statement period, as long as it is clear whether or not both of these days are included in the period.

Prematurity Disclosures for Time Accounts

	Automatically Renewable ("Rollover") Time Accounts	**Nonautomatically Renewable ("Nonrollover") Time Accounts**
Less than or equal to 1 month	No *advance* notice required. Notice must be sent within a "reasonable time" *after* renewal if any change made to disclosed term (other than interest rate and annual percentage yield).	No notice required.
More than 1 month but less than or equal to 1 year	**Timing** (a) 30 (calendar) days before maturity; or (b) 20 (calendar) days before end of grace period, if a grace period of at least 5 (calendar) days is provided. **Content** Interest rate and APY for new account (or fact that rates have not been determined, when they will be, and telephone number for consumer to call for rates), and *either*: (a) date of maturity of existing and new account, and change in terms; *or* (b) full disclosures for account (section 4(b)) and date of maturity for existing account.	No notice required.
More than 1 year	**Timing** Same as for accounts greater than one month and not more than one year. **Content** Full disclosures for account (section 4(b)) and date of maturity for existing account.	**Timing** 10 (calendar) days before maturity. **Content** Maturity date, and whether or not interest will be paid after maturity.

- For institutions that use the average daily balance method and that calculate interest for a period other than the statement period, the annual percentage yield earned and interest earned shall be based on that other period.

Advertising

An "advertisement" is any commercial message appearing in any medium (for example, newspaper, television, lobby boards and telephone response machines) if it directly or indirectly promotes the availability of an account. Regulation DD permits abbreviated disclosure requirements for advertisements made through broadcast or electronic media, such as radio and television; outdoor media, such as billboards; and telephone response machines. Limited disclosure rules apply to indoor signs. If an indoor sign states a rate of return it shall state the rate as an annual percentage yield, using that term or the term "APY". Indoor signs must also contain a statement advising consumers to contact an employee for further information about applicable fees and terms.

An institution cannot make any misleading or inaccurate statements in its advertisements. Using the term "profit," for example, which implies a return on an investment, is a misleading advertisement. Using the term "free" or "no-cost" (or a similar term) to describe an account is misleading if any maintenance or activity fee might be imposed on the account.

If any rate or yield is advertised, an institution must express it using the term "annual percentage yield." The "interest rate," using that term, that corresponds to the advertised annual percentage yield may be displayed. An institution may abbreviate the annual percentage yield as "APY" if the term is printed or stated in full in an advertisement.

For advertisements not exempt under 230.8(e), an institution triggers additional disclosure requirements if advertisements display either a bonus or an annual percentage yield. In such case, advertisements must disclose the following, as applicable:

- Variable rates — If accounts are variable-rate, advertisements must display the fact that rates may vary.
- Time period the annual percentage yield is offered — An institution must state how long advertised annual percentage yields are offered, such as "from March 7 through March 13" or "annual percentage yield effective as of March 7."
- Minimum balances — If a minimum balance is required to obtain the advertised annual percentage yield, the minimum balance must be stated.
- Minimum opening deposit — An institution must state any minimum opening deposit requirement.
- Statement concerning fees — An institution must state that fees could reduce earnings on the account.
- Time account features — The term of the time account ("three months," for example) must be stated. An institution must also state if a penalty will (or may) be imposed for early withdrawals.
- Bonus information — If a bonus is advertised, an institution must disclose any time requirement to obtain the bonus, when the bonus will be provided, any required minimum balance to obtain the bonus, and the annual percentage yield (which triggers additional disclosures).

Effect on State Laws

Regulation DD preempts state law requirements that are inconsistent with the requirements of the TISA or Regulation DD. A state law is inconsistent if it requires an institution to make a disclosure or take action that is prohibited by federal law.

Record Retention

An institution must retain records regarding compliance with Regulation DD for a minimum of two years after disclosures are required to be made or actions are required to be taken. It must keep evidence that disclosures were provided, but are not required to keep a copy of each disclosure provided to every consumer. Instead, an institution will establish compliance by providing evidence that it has established procedures for providing disclosures, has followed them, and has retained sample disclosures. An institution must keep sufficient rate and balance information to enable examiners to verify the interest paid on an account.

Records may be stored by use of microfiche, micro lm, magnetic tape, or other methods capable of accurately retaining and reproducing Information (for example, from a computer file). An institution need not retain disclosures in hard copy, as long as enough information is retained to reconstruct the required disclosures or other records.

Consequences of Noncompliance

Section 271 of the TISA provides that an institution failing to comply with the TISA requirements may be liable to consumer account holders for the sum of actual damages, attorney fees and court costs, and statutory penalties.

Examination Objectives

1. To verify that the institution has procedures in place to assure compliance with all provisions of the regulation.

2. To verify that the institution provides all required deposit account disclosures to consumers on a timely basis; and that the account disclosures are accurate and reflect the terms of the legal obligation between the consumer and the institution.

3. To verify that the institution complies with the subsequent disclosure requirements of the regulation, including change in terms and maturity notices.

4. To verify, if the institution provides periodic statements for deposit accounts, that such statements accurately disclose all required information.

5. To verify that the method used by the institution to pay interest is permissible, and to verify the accuracy of other calculations (e.g., the method used by the institution to calculate daily balances, average daily balances, and minimum balances).

6. To determine that the institution's advertisements are not misleading or inaccurate and that they include all required information.

Examination Procedures

Management and/or Policy-related Procedures

1. Determine the extent and adequacy of the institution's policies, procedures and practices for ensuring compliance with the regulation. This should include a determination as to whether the institution has an adequate mechanism in place to monitor the effectiveness of its compliance with the regulation.

2. Determine the extent and adequacy of the training received by the various individuals in the institution with responsibilities related to compliance with the regulation. This should include a review of any training materials pertaining to the regulation.

3. Determine the procedures or policies used by the institution to ensure that account disclosure information is provided to new or potential deposit account customers within the appropriate time frames.

4. Determine if the institution's procedures ensure subsequent disclosure of any change in terms required to be disclosed under 230.4(b) and that exceptions to notice requirements are limited to those set forth in §230.5(a)(2).

5. Determine if the institution's method of paying interest is permissible. This should include a review of when interest begins to accrue for deposits to the account as required by the Expedited Funds Availability Act.

6. Determine if the institution's advertising policies are consistent with the requirements of the regulation.

Transaction-Related Procedures

The procedures in this section of the examination procedures call for testing of the institution's procedures, policies and practices with respect to the regulation. In this regard, the examiner should review a sample of the various deposit account disclosures and notices required by the regulation, in addition to a sample of the institution's advertisements. The examiner must use judgment in deciding how large the sample should be. The samples of each required action, deposit account disclosure and advertisement reviewed should be expanded until the examiner is con dent that all aspects of the institution's activities and policies that are subject to the regulation are reviewed.

Account Disclosures

7. Determine the types of deposit accounts offered by the institution to consumers (including accounts usually offered to commercial customers that may occasionally be offered to consumers) as well as the characteristics for each type of deposit account (e.g., bonuses offered, minimum balances, balance computation method, frequency of interest crediting, fixed or variable rates, fees imposed, frequency of periodic statements, etc.).

8. Review each deposit account disclosure to determine whether the contents are accurate and include all information required by the regulation and that the disclosures reflect the legal obligation between the consumer and the institution.

9. Determine whether the institution provides the required deposit account disclosures on a timely basis in connection with the opening of an account or upon request.

Notice of Change in Terms and Notice Before Maturity

10. Determine whether the institution sends out change in terms notices to consumers at least 30 calendar days in advance of the effective date of any change in a term that may reduce the APY or that adversely affects the consumer. Review a sample of these notices to ensure that they include all required information and that they are sent on a timely basis.

11. Determine whether the institution sends out notices before maturity for time accounts. Review a sample of these notices to ensure that they contain all required information and that they are sent on a timely basis.

Periodic Statement Disclosures

An institution is not required to send a periodic statement; however, if it does, it must comply with the provisions of the regulation concerning periodic statements.

12. Determine the accounts for which the institution sends a periodic statement and the frequency with which they are sent.

13. Review a sample of periodic statements from each of the different types of deposit accounts. The examiner should obtain samples of periodic statements for each deposit account that illustrates the various types of transactions and activities permitted on the account. Determine if the periodic statement includes all required disclosures and that they are accurate.

Payment of Interest

14. Review a sample of each of the different types of deposit accounts to determine whether the institution's method of paying interest is one of the methods permitted by the regulation.

15. Determine if interest begins to accrue not later than the business day specified for interest bearing accounts in Section 606 of the Expedited Funds Availability Act (Regulation CC) and that interest accrues until the day funds are withdrawn.

16. Determine that accrued interest is not forfeited when a consumer closes their account prior to crediting of the interest unless this practice is included in the initial account disclosures.

Advertising Requirements

17. Determine the types of advertisements placed by the institution, including but not limited to, radio ads, newspaper, brochures, television, statement stuffers, etc.

18. Review a sample of each type of advertisement to determine if the advertisements are misleading, inaccurate, or misrepresent the deposit contract. In addition, verify that the advertisements include all required disclosures.

Record Retention Requirements

19. Review a sample of the institution's records to determine whether the institution has maintained evidence of compliance for a minimum of 2 years after disclosures are required to be made or action is required to be taken, including rate information, advertising, etc.